

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

**JOON S. MOON, an individual,
and PATTERSON LABORATORIES,
INC., a Michigan corporation,**

Plaintiffs,

Case No. 05-70228

v.

HONORABLE DENISE PAGE HOOD

**SCP POOL CORPORATION and
SCP DISTRIBUTORS, L.L.C.,
foreign corporations,**

Defendants.

**ORDER DENYING DEFENDANTS' MOTION TO DISMISS PLAINTIFF'S
COMPLAINT OR IN THE ALTERNATIVE TRANSFER VENUE**

I. INTRODUCTION

This matter is before the Court on Plaintiffs' Motion for Order to File Supporting Documentation filed April 15, 2005 and Defendants' Amended Motion to Dismiss or in the Alternative Transfer Venue filed July 26, 2005. Neither party has filed a Response to either motion.

Defendants filed a Motion to Dismiss Plaintiffs' Complaint or In the Alternative Transfer Venue on January 31, 2005. Plaintiffs filed a Response on February 22, 2005. Defendants filed a Reply on March 4, 2005. On April 13, 2005 Defendants filed an Ex Parte Motion for Order Allowing Defendants to File Supporting Documentation in Support of their Motion to Dismiss or in the Alternative Transfer Venue. Plaintiffs then filed a Motion for Order to File Supporting Documentation by all Plaintiffs on April 15, 2005. The Court issued an Order Allowing Defendants to File Supporting Documentation in Support of their Motion to Dismiss on April 19, 2005. On May

27, 2005 the Court denied Defendants' Motion to Dismiss Plaintiffs' Complaint or In the Alternative Transfer Venue. Defendants then filed a second Motion to Dismiss or in the Alternative Transfer Venue on July 26, 2005.

Defendant argues that the second Motion to Dismiss should be granted based on (1) the First-Filed Rule, (2) the interests of convenience and justice and (3) venue. All three of these issues have been ruled on in the Court's May 27, 2005 Order denying Defendants' motion to dismiss.

As the issues have already been ruled on, it appears that Defendants' second Motion to Dismiss is essentially a motion for reconsideration. The Local Rules of the Eastern District of Michigan provided that any motion for reconsideration shall be served not later than ten days after entry of such order. E.D. Mich. LR 7.1(g)(1). No response to the motion and no oral argument thereon shall be allowed unless the Court, after filing the motion, otherwise directs. E.D. Mich. LR 7.1(g)(2). Local Rule 7.1.(g) further states:

(3) **Grounds.** Generally, and without restricting the court's discretion, the court will not grant motions for rehearing or reconsideration that merely present the same issues ruled upon by the court, either expressly or by reasonable implication. The movant must not only demonstrate a palpable defect by which the court and the parties have been misled but also show that correcting the defect will result in a different disposition of the case.

E.D. Mich. LR 7.1(g)(3).

The Court denied Defendants' initial Motion to Dismiss on May 27, 2005. Defendants filed the second Motion to Dismiss on July 26, 2005, well beyond the ten day period proscribed by the Local Rules. Since the Court has previously ruled on the issues presented in Defendants' July 26, 2005 Motion to Dismiss, Defendants' second Motion to Dismiss Plaintiffs' Complaint or In The Alternative Transfer Venue is denied.

Furthermore, as the Court has already issued an order denying the motion to which the

Plaintiffs requested to file supporting documentation, Plaintiffs' Motion for Order to File Supporting Documentation is moot.

Accordingly,

IT IS HEREBY ORDERED that Defendants' Amended Motion to Dismiss or in the Alternative Transfer Venue [**Docket No. 17, filed July 26, 2005**] is DENIED.

IT IS FURTHER ORDERED that Plaintiffs' Motion for Order to File Supporting Documentation [**Docket No. 8, filed April 15, 2005**] is MOOT.

/s/ Denise Page Hood
DENISE PAGE HOOD
United States District Judge

DATED: March 14, 2006

I hereby certify that a copy of the foregoing document was served upon counsel of record on March 14, 2006, by electronic and/or ordinary mail.

s/William F. Lewis
Case Manager